

By: Shapleigh

S.B. No. 2180

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to transfer of a student of limited English proficiency  
3 out of a public school bilingual or special language program and to  
4 public school accountability for those programs.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 29.056(g), Education Code, is amended to  
7 read as follows:

8 (g) A district may transfer a student of limited English  
9 proficiency out of a bilingual education or special language  
10 program for the first time or a subsequent time if the student is  
11 able to participate equally in a regular all-English instructional  
12 program as determined by:

13 (1) agency-approved tests administered at the end of  
14 each school year to determine the extent to which the student has  
15 developed oral and written language proficiency and specific  
16 language skills in both the student's primary language and English;

17 (2) satisfactory performance on the reading  
18 assessment instrument under Section 39.023(a) or an English  
19 language arts assessment instrument under Section 39.023(c), as  
20 applicable, with the assessment instrument administered in  
21 English[~~, or, if the student is enrolled in the first or second~~  
22 ~~grade, an achievement score at or above the 40th percentile in the~~  
23 ~~reading and language arts sections of an English standardized test~~  
24 ~~approved by the agency]; and~~

1           (3) other indications of a student's overall progress,  
2 including [~~agency-approved~~] criterion-referenced test scores,  
3 [~~tests and the results of a~~] subjective teacher evaluation, and  
4 parental evaluation.

5           SECTION 2. Section 29.062, Education Code, is amended by  
6 amending Subsections (a), (d), and (e) and adding Subsections  
7 (a-1), (b-1), (b-2), (d-1), and (f) to read as follows:

8           (a) The legislature recognizes that compliance with this  
9 subchapter is an imperative public necessity. Therefore, in  
10 accordance with the policy of the state, the agency shall evaluate  
11 the effectiveness of programs under this subchapter based on the  
12 following, disaggregated by campus and school district or  
13 open-enrollment charter school:

14                 (1) the academic excellence indicators adopted under  
15 Section 39.051(a), including the results of assessment  
16 instruments;

17                 (2) the results of monitoring under Subsection (b);

18                 (3) the results of analysis under Subsection (b-1);

19 and

20                 (4) the accomplishment of annual improvement goals  
21 designated under Subsection (d)(2).

22           (a-1) The agency may combine but may not replace evaluations  
23 under this section with federal accountability measures concerning  
24 students of limited English proficiency.

25           (b-1) In measuring compliance under this subchapter, the  
26 agency shall analyze the following, disaggregated by campus and  
27 school district or open-enrollment charter school:

1           (1) frequency of requests by a campus, district, or  
2 open-enrollment charter school for a waiver of or exception to a  
3 requirement relating to a program under this subchapter;

4           (2) a rate of parental denial of approval of a  
5 student's entry into, placement in, or exit from a program under  
6 this subchapter that is at least 150 percent greater than the state  
7 average rate of parental denial;

8           (3) the difference in grade-level retention rates  
9 between students of limited English proficiency and students who  
10 are not students of limited English proficiency;

11           (4) any variance of greater than 20 percent between  
12 the percentage of students identified as students of limited  
13 English proficiency and the percentage of students whose families  
14 speak a language other than English at home, as determined by the  
15 home language survey administered to all students new to a campus,  
16 district, or open-enrollment charter school as provided by Section  
17 29.056(a)(1);

18           (5) any significant difference in academic  
19 performance between students of limited English proficiency and  
20 students who are not students of limited English proficiency; and

21           (6) any significant difference in the dropout rate for  
22 grade levels 9 through 12 between students of limited English  
23 proficiency and students who are not students of limited English  
24 proficiency.

25           (b-2) If as a result of a program evaluation under this  
26 section the agency conducts a desk audit or on-site monitoring of a  
27 campus, school district, or open-enrollment charter school, each

1 agency auditor or monitor must be appropriately certified by the  
2 State Board for Educator Certification as provided for under  
3 Section 29.061 for the bilingual education or English as a second  
4 language or other special language program to be audited or  
5 monitored. An emergency endorsement issued under Section 29.061(a)  
6 is not considered appropriate certification for purposes of this  
7 subsection.

8 (d) The agency shall notify in writing a school district  
9 concerning a campus's or the district's noncompliance or an  
10 open-enrollment charter school concerning the open-enrollment  
11 charter school's ~~[found in]~~ noncompliance ~~[in writing,~~ not later  
12 than the 30th day after the date of the desk audit or on-site  
13 monitoring. The district or open-enrollment charter school shall  
14 take immediate corrective action. The corrective action must  
15 include:

16 (1) a review and assessment of:

17 (A) procedures for identification of students of  
18 limited English proficiency;

19 (B) procedures for placement of students in a  
20 program under this subchapter;

21 (C) student assessment procedures, including  
22 assessment of:

23 (i) English language proficiency;

24 (ii) proficiency in the language spoken at  
25 home; and

26 (iii) academic achievement in, as defined  
27 by commissioner rule, core content areas;

1                   (D) provision of instruction under the program,  
2 including assessment of the quality of instruction and whether the  
3 program is being implemented as designed;

4                   (E) credentials of instructional staff,  
5 including:

6                   (i) appropriate certification of teachers  
7 providing English language development or content area instruction  
8 to students of limited English proficiency; and

9                   (ii) the amount of instruction provided by  
10 teachers who hold emergency endorsements or who are teaching  
11 outside the teacher's area of specialization;

12                   (F) professional development provided to content  
13 area teachers serving students of limited English proficiency;

14                   (G) curricular materials used in providing  
15 instruction; and

16                   (H) program evaluation procedures, including  
17 procedures for:

18                   (i) ongoing monitoring to identify program  
19 components needing improvement and implementing identified  
20 improvements; and

21                   (ii) identifying and closing any academic  
22 achievement gap between students of limited English proficiency and  
23 students who are not students of limited English proficiency; and

24                   (2) designation by the district or open-enrollment  
25 charter school of annual improvement goals that:

26                   (A) are based on the results of the review and  
27 assessment under Subdivisions (1)(A) through (G) and Subdivision

1 (1)(H)(i);

2 (B) are designed to improve academic achievement  
3 in the core content areas by students of limited English  
4 proficiency; and

5 (C) are based on the extent of any academic  
6 achievement gap identified under Subdivision (1)(H)(ii), with  
7 incremental improvement goals established according to the size of  
8 the achievement gap.

9 (d-1) The agency shall review annual improvement in a  
10 program under this subchapter as measured by the goals designated  
11 under Subsection (d)(2). A campus, school district, or  
12 open-enrollment charter school with a program that fails to meet  
13 one or more annual improvement goals shall provide for a program  
14 audit conducted by an independent auditor who has experience in  
15 implementing programs for students of limited English proficiency  
16 and who is appropriately certified as provided for under Section  
17 29.061 for the program to be audited. The agency shall take  
18 corrective action as appropriate in one or more areas reviewed and  
19 assessed under Subsection (d)(1) of a program that fails to meet an  
20 annual improvement goal for two or more consecutive school years.

21 (e) If a campus, school district, or open-enrollment  
22 charter school fails to satisfy appropriate standards adopted by  
23 the commissioner for purposes of Subsection (a), the agency shall  
24 apply sanctions, which may include the removal of accreditation,  
25 loss of foundation school funds, or both.

26 (f) The commissioner shall adopt rules consistent with this  
27 section as necessary to administer this section.

1 SECTION 3. Section 29.066, Education Code, is amended by  
2 adding Subsection (d) to read as follows:

3 (d) This subsection applies only to a school district that  
4 is required to offer bilingual education or special language  
5 programs. During each school year after a district student is  
6 transferred out of the district's bilingual education or special  
7 language program, the district shall include in the district's  
8 Public Education Information Management System (PEIMS) report the  
9 following information concerning the student without providing any  
10 personally identifiable information concerning the student:

11 (1) the total amount of time the student was enrolled  
12 in a bilingual education or special language program;

13 (2) the student's grades each grading period in each  
14 subject in the foundation curriculum under Section 28.002(a)(1);

15 (3) the student's performance on each assessment  
16 instrument administered under Section 39.023(a) or (c);

17 (4) any disciplinary actions taken against the student  
18 under Subchapter A, Chapter 37;

19 (5) the number of credits the student has earned  
20 toward high school graduation, if applicable;

21 (6) the number of years the student has been enrolled  
22 in high school, if applicable; and

23 (7) whether the student graduated from high school,  
24 earned a high school equivalency certificate, or dropped out of  
25 high school, if applicable.

26 SECTION 4. Section 39.051(b), Education Code, is amended to  
27 read as follows:

1 (b) Performance on the indicators adopted under this  
2 section shall be compared to state-established standards. The  
3 degree of change from one school year to the next in performance on  
4 each indicator adopted under this section shall also be considered.  
5 The indicators must be based on information that is disaggregated  
6 by race, ethnicity, gender, identification as a student of limited  
7 English proficiency, and socioeconomic status and must include:

8 (1) the results of assessment instruments required  
9 under Sections 39.023(a), (c), and (l), aggregated by grade level  
10 and subject area;

11 (2) dropout rates, including dropout rates and  
12 district completion rates for grade levels 9 through 12, computed  
13 in accordance with standards and definitions adopted by the  
14 National Center for Education Statistics of the United States  
15 Department of Education;

16 (3) high school graduation rates, computed in  
17 accordance with standards and definitions adopted in compliance  
18 with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

19 (4) student attendance rates;

20 (5) the percentage of graduating students who attain  
21 scores on the questions developed for end-of-course assessment  
22 instruments under Section 39.0233(a) that are equivalent to a  
23 passing score on the assessment instrument required under Section  
24 51.3062;

25 (6) the percentage of graduating students who meet the  
26 course requirements established for the recommended high school  
27 program by State Board of Education rule;



1           (7) the results of the Scholastic Assessment Test  
2 (SAT), the American College Test (ACT), articulated postsecondary  
3 degree programs described by Section 61.852, and certified  
4 workforce training programs described by Chapter 311, Labor Code;

5           (8) the percentage of students, aggregated by grade  
6 level, provided accelerated instruction under Section 28.0211(c),  
7 the results of assessments administered under that section, the  
8 percentage of students promoted through the grade placement  
9 committee process under Section 28.0211, the subject of the  
10 assessment instrument on which each student failed to perform  
11 satisfactorily, and the performance of those students in the school  
12 year following that promotion on the assessment instruments  
13 required under Section 39.023;

14           (9) for students who have failed to perform  
15 satisfactorily on an assessment instrument required under Section  
16 39.023(a) or (c), the numerical progress of those students grouped  
17 by percentage on subsequent assessment instruments required under  
18 those sections, aggregated by grade level and subject area;

19           (10) the percentage of students exempted, by exemption  
20 category, from the assessment program generally applicable under  
21 this chapter;

22           (11) the percentage of students of limited English  
23 proficiency exempted from the administration of an assessment  
24 instrument under Sections 39.027(a)(3) and (4);

25           (12) the percentage of students in a special education  
26 program under Subchapter A, Chapter 29, assessed through assessment  
27 instruments developed or adopted under Section 39.023(b);

1           (13) the measure of progress toward preparation for  
2 postsecondary success; and

3           (14) the measure of progress toward dual language  
4 proficiency under Section 39.034(b), for students of limited  
5 English proficiency, as defined by Section 29.052.

6           SECTION 5. This Act applies beginning with the 2009-2010  
7 school year.

8           SECTION 6. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2009.